

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

NOV 23 1999  
REGULATORY DIV.

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**In Re: Proposed Rulemaking Regarding )  
Regulations of Certain Telemarketing )  
Practices )**

**Docket No. 99-00645**

EXECUTIVE SECRETARY

**COMMENTS OF PAUL G. SUMMERS,**  
**THE TENNESSEE ATTORNEY GENERAL**

Paul G. Summers, Attorney General and Reporter for the State of Tennessee, respectfully submits the following comments in response to the Tennessee Regulatory Authority's Notice of Rulemaking regarding Regulations of Certain Telemarketing Practices. The Attorney General submits these comments in his public interest role of protecting consumers through his enforcement and investigatory powers under the Tennessee Consumer Protection Act.

The Tennessee Attorney General strongly supports the Tennessee Regulatory Authority's proposal to promulgate rules implementing the "Do Not Call Register" (hereinafter "Register") and regulating the use of automatic dialing and announcing devices. The Tennessee Attorney General particularly urges the Tennessee Regulatory Authority to do the following:

- A consumer's name should remain on the Register until removed at the consumer's request. To do otherwise limits the consumer's ability to take advantage of a law obviously directed at consumers. Consumer confusion is likely as well. Alternatively, the consumer should be notified in writing at least sixty (60) days in advance that his or her name is about to be removed. The notice should include an application to reapply for listing on the Register;
- No technical nor logical reason exists for providing the name with the prohibited number to the telemarketer. Doing so would discourage consumers with unpublished numbers from joining the Register. Consequently, such a rule would create a conflict of privacy interest with these consumers. This is a result in conflict with the legislatures intent to assist consumers in taking advantage of their privacy rights;

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- The extent of consumer education the Tennessee Regulatory Authority wishes to undertake is primarily an internal issue. Some education is essential. The local phone books carry an array of important facts. Including a description of the new law is a must. Including an application for the consumer would reduce costs of implementing the legislature's directive.
- The choice of what entity actually performs the telemarketing for a company rests exclusively with that company. If a company is not responsible for the independent telemarketers it hires, then the company will be able to avoid the rules entirely;
- A reasonable time frame for companies to update their "Don't Call List" would seem appropriate. However, the time period should not extend beyond thirty (30) days; and
- The legislative intent is quite clear with respect to companies' attempt to block a consumer's caller ID function on their phone. The rules as proposed carry out this intent. A company should not be able to circumvent the rule because of a claimed technological lag in the capabilities of its equipment. Such an exemption would negatively impact the central goal of the legislation and place one or more companies at an economic advantage. Companies should not be able to retain equipment because it will block its identification.

The Tennessee Attorney General has worked aggressively to stop the problems associated with telemarketing. As the chief state law enforcement official responsible for prosecuting violations of consumer protection laws, the Attorney General has a unique role in maintaining the integrity of competitive markets while protecting consumers from fraud and other abusive tactics. The Attorney General also through the Consumer Advocate actively represents the interests of consumers before the Authority. The Tennessee Attorney General has encouraged federal and state legislative and administrative measures, prosecuted unscrupulous telemarketers, and obtained judgments and settlements that provide for injunctions, restitution and penalty payments. The Attorney General strongly supports the rules as proposed.

By providing for measures offering relief to the public from the problems related to telemarketing in Chapter 478 of the Public Acts of 1999, the Tennessee Legislature unequivocally directed the Tennessee Regulatory Authority to take additional action to stop these abuses, and to preserve and protect the right of consumers to be left alone. The Attorney General urges the Tennessee Regulatory Authority to act decisively and swiftly to carry out the legislative mandate issued under Chapter 478 of the Public Acts of 1999.

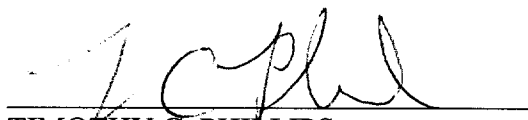
The Tennessee Attorney General's Office supports the Tennessee Regulatory Authority's efforts to enact meaningful rules, consistent with these recommendations and state law, to protect consumers' basic rights. If adopted, the Tennessee Regulatory Authority's proposals will establish a sound basis for competition, while protecting the basic rights of consumers.

Dated this November 22, 1999.

Respectfully submitted,



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